IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

TUESDAY, THE 10TH JULY 2007 / 19TH ASHADHA 1929

OP.No. 6143 of 2003(F)

PETITIONER:

MANAGER, A.M.L.P. SCHOOL,
PULIKODE SOUTH P.O., KOTTAKKAL,
MALAPPURAM DISTRICT.

BY ADV. SRI.KRB.KAIMAL
SRI.V.D.SUDHEER

RESPONDENTS:
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1. **STATE OF KERALA,**
   REPRESENTED BY THE SECRETARY TO GOVERNMENT,
   GENERAL EDUCATION DEPARTMENT, SECRETARIAT,
   THIRUVANANTHAPURAM.

2. **THE ASSISTANT EDUCATIONAL OFFICER,**
   MALAPPURAM.

3. **SRI.K.C.VISWANATHAN,**
   VATTIMUNDA, P.O. KONOTT, (VIA) KUNNAMANGALAM,
   KOZHIKODE-673 571.

4. **SMT.E.VIDYA DEVI,**
   L.P.S. ASSISTANT, A.M.L.P. SCHOOL,
   PULIKODE SOUTH, KOTTAKKAL, MALAPPURAM DIST.

BY ADV. SRI.THOMAS ANTONY - R3
SRI.M.P.PRAKASH
GOVERNMENT PLEADER SMT.T.B.RAMANI - R1 & R2

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 10/07/2007, ALONG WITH OP NO. 6565 OF 2003 OP NO. .6695 OF 2003 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP. NO.10843/2003 IN OP. 6143/2003

DISMISSED.

10.07.2007 SD/- THOTTATHIL B.RADHAKRISHNAN, JUDGE

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE ORDER NO.DIS. F/4059/91 DT. 27.2.92 ISSUED BY THE 2ND RESPONDENT.

EXT.P2:- COPY OF THE VISITING REMARKS DT. 6.11.95 OF THE 2ND RESPONDENT.

EXT.P3:- COPY OF THE LETTER NO.P.713/93 DT.18.11.95 OF THE 2ND RESPONDENT TO THE D.P.I.

EXT.P4:- COPY OF THE LETTER NO.62/1272.D2/92 K.DIS DT. 15.12.1995 OF THE D.P.I. TO THE PETITIONER.

EXT.P5:- COPY OF THE ORDER NO.G.O.(RT) NO.2910/98/GE DT. 24.7.98 ISSUED BY THE 1ST RESPONDENT.

EXT.P6:- COPY OF THE GOVERNMENT ORDER NO.G.O.(MS) NO.18/97/GE DT. 17.1.97.

EXT.P7:- COPY OF THE GOVERNMENT ORDER NO.G.O.(MS) 348/97/GE DT. 2.9.97.

.EXT.P8:- COPY OF THE ORDER NO.G.O.(RT) NO.3376/01/GE DT. 7.9.01 ISSUED BY THE 1ST RESPONDENT.

EXT.P9:- COPY OF THE JUDGMENT OF THIS HONOURABLE COURT IN WA. NO.879/02 DT. 19.9.02.

EXT.P10:- COPY OF THE T.C.H.CERTIFICATE DT.30.6.90 ISSUED BY THE KARNATAKA SECONDARY EDUCATION EXAMINATION BAORD TO THE 3RD RESPONDENT.

EXT.P11:- COPY OF THE INSERVICE COURSE CERTIFICATE ISSUED BY HEADMASTER, GOVT.TEACHERS, TRAINING INSTITUTE TO THE 3RD RESPONDENT DT. 20.10.97.

EXT.P12:- COPY OF THE ORDER NO.G.O.(RT) NO.247/03/AGE DT. 16.1.03 ISSUED BY THE 1ST RESPONDENT.

OP. NO.6143/2003

RESPONDENTS EXHIBITS

EXT.R3(a):- COPY OF THE CERTIFICATE ISSUED BY SRI.BHARATHIYA VIDYARTHI NILAYA TEACHERS' TRAINING INSTITUTE.

EXT.R3(b):- COPY OF THE LETTER DT. 18.6.02 OF THE MANAGER, AMLP SCHOOL, POLUR.

EXT.R3(c):- COPY OF THE ATTENDANCE REGISTER FOR THE MONTHS OF JANUARY, FEBRUARY AND MARCH 1984.

EXT.R3(d):- COPY OF THE ORDER OF APPOINTMENT DT.10.7.1991.

EXT.R3(e):- COPY OF THE APPLICATION FOR APPROVAL OF APPOINTMENT.

EXT.R3(f):- COPY OF THE LETTER DT. 31.10.95 OF THE 2ND RESPONDENT.

EXT.R3(g):- COPY OF THE LETTER DT. 1.1.96 OF THE PETITIONER.

EXT.R3(h):- COPY OF THE REPRESENTATION DT. 10.1.96.

EXT.R3(i):- COPY OF THE REPRESENTATION DT. 21.1.96 SUBMITTED BY THE 3RD RESPONDENT BEFORE THE 1ST RESPONDENT.

EXT.R3(j):- COPY OF THE REPRESENTATION DT. 25.3.96 SUBMITTED BEFORE THE 2ND RESPONDENT.

EXT.R3(k):- COPY OF THE ORDER DT. 11.3.98 OF THE 2ND RESPONDENT.

EXT.R3(l):- COPY OF THE APPEAL PETITION DT. 12.5.98 SUBMITTED BEFORE THE 1ST RESPONDENT.

EXT.R3(m):- COPY OF THE LETTER DT. 29.6.98 OF THE DEO ADDRESSED TO THE 1ST RESPONDENT.

EXT.R3(n):- COPY OF THE REPRESENTATION DT. 11.6.968 SUBMITTED BEFORE THE PETITIONER.

EXT.R3(o):- COPY OF THE ORDER DT. 10.2.2000 OF THE DPI.

EXT.R3(p):- COPY OF THE CIRCULAR DT. 27.3.98 OF THE DPI.

EXT.R3(q):- COPY OF THE G.O.(MS) NO.113/99/GE DT. 20.5.99.

/TRUE COPY/

P.S. TO JUDGE

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THOTTATHIL B. RADHAKRISHNAN, J.

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O.P.Nos.6143 of 2003-F,

6565 of 2003-F

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6695 of 2003-V

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Dated this the 10th day of July, 2007.

JUDGMENT

These three writ petitions have arisen out of the fact that Sri.K.C.Viswanathan, the petitioner in O.P.6693/2003 was unqualified at the time of his initial appointment as an LPSA which irregularity, with the passage of time, happened to be cured by the Government taking a policy decision to take care of certain persons similar to that of Viswanathan, who had undergone TCH Course in Karnataka. The intricacies of those controversies need not be gone into for a final disposal of these matters.

2. While Viswanathan was appointed and his

papers sent for approval, the statutory authorities refused to grant approval. Thereafter, one Sri. Biju was appointed in the vacancy resulting out of the termination of Viswanathan on account of lack of approval. With the passage of time, another vacancy arose and Smt.E.Vidhya Devi, the petitioner in O.P.6565/2003 was appointed on 13-6-1998. Issues relating to the approval of K.C.Viswanathan's appointment still continued to gain attention either before the statutory authorities, the Government or before this Court in writ petitions and writ appeals. All these resulted in an ultimate direction to the Government to reconsider the whole issue. Accordingly, the Government issued the impugned order by which Viswanathan was ordered to be treated as regularly appointed from the date of his initial appointment and his appointment and service were ordered to be approved. By virtue of the provisions of the Kerala Education Act and the Rules and the directions of the Government, the Manager stood compelled to re-appoint Viswanathan from the date of

his initial entry into service. For this, the junior-most LPSA Vidhya Devi had to be thrown out. She, therefore, has filed O.P.6565/2003.

3. The impugned Government decision is footed on their earlier policy decision to extend certain benefits to some unfortunate Keralites who went to Karnataka in connection with their education in TCH. So much so, the Government have stated in their counter affidavit that the appointment of Viswanathan on the strength of the Government Orders would not result in any statutory rights accruing in his favour, but only be relevant for the purpose of his emoluments etc. This is the effect of the re-appointment of Viswanathan on 6-8-2003. As a necessary corollary, this also immediately means that Smt.E.Vidhya Devi was regularly appointed on 13-6-1998 and her service till 6-8-2003 is entitled to be approved with all necessary consequences. It also goes without saying that approval of the appointment of Vidhya Devi, as stated above, will attract

all necessary statutory consequences.

In the result, these writ petitions are disposed of with the following directions:

(a) The Manager having complied with the impugned order and having appointed Sri.K.C.Viswanathan, the petitioner in O.P.6695/2003 with effect from 6-8-2003, his such appointment will be approved and all necessary benefits will be released to him, if not already given.

(b) The appointment of Smt.E.Vidya Devi, the petitioner in O.P.6565/2003 on 13-6-1998 and her continued employment till 6-8-2003 as LPSA will be approved and if any benefits therein are still to be released, that shall be released. Her such appointment will also make available to her

all statutory benefits on account of such employment.

(c) The AEO will pass consequential orders within a period of two months from the date of receipt of a copy of this judgment.

THOTTATHIL B. RADHAKRISHNAN,
JUDGE.

Sha/-

THOTTATHIL B. RADHAKRISHNAN, J.

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O.P.Nos. 6143 of 2003-F,
6565 of 2003-F
&
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JUDGMENT

Dated: 10th July, 2007.